

**NORTH CAROLINA CRIMINAL JUSTICE
EDUCATION AND TRAINING STANDARDS COMMISSION**

MINUTES

DATE: August 21, 2015

TIME: 9:00 A.M.

LOCATION: Wake Technical Community College- Public Safety Education Campus
Raleigh, North Carolina

SUBMITTED BY: Steven G. Combs
Director

MEMBERS PRESENT

Mr. Eddie Caldwell
Chief Scott Cunningham
Chief Ira Jones
Ms. Robin Pendergraft
Mr. Johnny Hawkins
Mr. Ray Davis
Mayor Bobby Kilgore
Mr. Charles Johnson
Dr. Robert Ruth
Ms. Tracy McPherson
Chief Tim Hayworth
Mr. Trey Robison
Mr. Jeff Welty
Colonel Bill Grey
Ms. Angela Williams
Lieutenant Yolanda Sparrow
Mr. Nathan Mizell
Mr. James Fisher-Davis
Chief Harold Medlock
Mr. Steve Johnson
Captain Marianne Bond
Mr. James Festerman
Mr. B. W. Collier

MEMBERS ABSENT

Chief Bill Hollingsed
Chief Patricia Bazemore
Captain Lee Farnsworth
Mr. Brent Herron
Chief Tim Ledford
Mr. Bob Myrick
Mr. Charles Walston
Chief Allen Smith

I. CALL TO ORDER

Commission Vice-Chairman Eddie Caldwell called the meeting to order. Ms. Donna Byrd, Clerk to the Commission, administered the Oath of Office to reappointed members: Chief Scott Cunningham of the Town of Kernersville, who represents the North Carolina Association of Chiefs of Police; Chief Harold Medlock of the Fayetteville Police Department, who represents the North Carolina Police Executives Association; Mr. Trey Robison, who represents the North Carolina Conference of District Attorneys and Mayor Bobby Kilgore who represents the North Carolina League of Municipalities. Ms. Byrd administered the Oath of Office to new members: Captain Marianne Bond of the Durham Police Department, who represents the North Carolina Law Enforcement Women's Association; Mr. B.W. Collier, Director of the North Carolina State Bureau of Investigation; and; Commissioner Gregory K. Baker representing Mr. Frank Perry, Secretary of

the North Carolina Department of Public Safety. Following the roll call, Commission Vice-Chairman Caldwell declared that a quorum was present and welcomed all visitors to the Commission meeting. Commission Vice-Chairman Caldwell read the Ethics Responsibility into the minutes.

Commission Vice-Chairman Caldwell personally thanked Ms. Joleigh Kelley for hosting the Commission at the Wake Technical Community College Public Safety Education Campus.

II. PRESENTATION OF RESOLUTIONS

Next, Commission Vice-Chairman Caldwell presented a Resolution in Memoriam for Alexander Thalmann of the New Bern Police Department, who died on March 31, 2014. Commission Vice-Chairman Caldwell read the Resolution in Memoriam into the minutes.

III. AWARDING OF ADVANCED CERTIFICATES [Agenda Memorandum No. 03-15]

Commission Vice-Chairman Caldwell reported that staff had evaluated the applications of all one hundred and twenty-six (126) candidates. There were one hundred and fourteen (114) candidates for the Advanced Law Enforcement Certificate and twelve (12) candidates for the Advanced Criminal Justice Certificate. He noted that each of these applicants had met the requirements to receive the Advanced Certificate and the Advanced Certificate pin.

MOTION was made by Commissioner Ira Jones that the Commission award the Advanced Law Enforcement Certificate or Advanced Criminal Justice Certificate to each named individual. The MOTION was seconded by Commissioner Johnny Hawkins and carried unanimously.

The following individuals were present to personally receive their Advanced Law Enforcement and Advanced Criminal Justice Certificates:

Leigh Ann Brooks	Aberdeen Police Department Presented by Chief Timothy Wenzel
Charles Hunt	Fayetteville Police Department Presented by Chief Harold Medlock
John Duncan, III	Mount Olive Police Department Presented by Chief Thomas Brown
Steven Morris Parks	Mount Olive Police Department Presented by Chief Brown
Linda F. Tyson	Mount Olive Police Department Presented by Chief Brown
Aaron L. Carter	NCDMV License and Theft Bureau Presented by Commission Vice-Chairman Caldwell
Casey M. Drake	N.C. State Bureau of Investigation Presented by Director B. W. Collier
Gary Paul Lee	Roxboro Police Department Presented by Chief David Hess

William Sidney Davis	State Capitol Police Presented by Chief Glen Allen
Allyson Priest	State Capitol Police Presented by Chief Allen
Patrick L. Giddeons	Warsaw Police Department Presented by Chief Samuel Southerland
Samuel Southerland	Warsaw Police Department Presented by Commission Vice-Chairman Caldwell
Sybil Kearse	NCDPS/Division of Adult Correction Presented by Assistant Superintendent Demetrius Clark
Charles Johnson	NCDPS/Division of Adult Correction Presented by Alfred Johnson and Lt. Brenton Hooker

IV. ELECTIONS

A. Chairman

Vice-Chairman Eddie Caldwell presided over the Commission to take nominations for the office of Chairman.

MOTION was made by Commissioner Robin Pendergraft to nominate Bill Hollingsed as Chairman of the North Carolina Criminal Justice Education and Training Standards Commission. The MOTION was seconded by Commissioner Scott Cunningham and carried unanimously.

B. Vice-Chairman

Commissioner Ray Davis presided over the Commission to take nominations for the office of Vice-Chairman.

MOTION was made by Commissioner Bob Ruth to nominate Eddie Caldwell as Vice-Chairman of the North Carolina Criminal Justice Education and Training Standards Commission. The MOTION was seconded by Commissioner James Fisher-Davis and carried unanimously.

C. Standing Committee Chairpersons

Commission Vice-Chairman Caldwell presided over the remainder of the nominations.

1. Education and Training Committee

MOTION was made by Commissioner Steve Johnson to nominate Robin Pendergraft as Chairperson of the Education and Training Committee. The MOTION was seconded by Commissioner Yolanda Sparrow and carried unanimously.

2. Planning and Standards Committee

MOTION was made by Commissioner Jeff Welty to nominate Scott Cunningham as Chairman of the Planning and Standards Committee. The MOTION was seconded by Commissioner Fisher-Davis and carried unanimously.

3. Probable Cause Committee

MOTION was made by Commissioner Ira Jones to nominate Ray Davis as Chairman of the Probable Cause Committee. The MOTION was seconded by Commissioner Bobby Kilgore and carried unanimously.

V. MINUTES OF MAY 23, 2015 and July 15, 2015 MEETING

Commission Vice-Chairman Caldwell entertained a motion to approve the minutes of the previous Commission meeting.

MOTION was made by Commissioner Scott Cunningham that the Commission approve the minutes of the May 23, 2015 and July 15, 2015 meetings as mailed. The MOTION was seconded by Commissioner Trey Robison and carried unanimously.

VI. STANDING COMMITTEE REPORTS

A. Executive Committee - Chairman Eddie Caldwell

Chairman Caldwell reported that the Executive Committee met on Thursday, August 20, 2015, at the Wake Technical Community College Public Safety Training Center in Raleigh.

Chairman Caldwell stated that the Executive Committee discussed the Commission dates for next year. The new dates for 2016 are: February 11-12, 2016, May 11-12, 2016, August 11-12, 2016 and November 17-18, 2016. The February meeting is tentatively scheduled to be held at the Central Piedmont Community College in Charlotte. The May – November meetings to be held at the Wake Technical Community College Public Safety Education Campus.

Chairman Caldwell asked Director Steven Combs to give an update on the Criminal Justice Standards Division. A copy of his written report is attached.

Chairman Caldwell asked Director Mark Strickland to give an update on the Justice Academy. A copy of his written report is attached.

Motion was made by Commissioner Cunningham on behalf of the Executive Committee to approve the 2016 dates for the Commission meetings; seconded by Commissioner Ray Davis. The Motion was carried unanimously.

B. Education and Training Committee – Chairperson Robin Pendergraft

Chairperson Pendergraft reported that the Education and Training Committee met on Thursday, August 20, 2015 at Wake Technical Community College, Raleigh, North Carolina.

Chairperson Pendergraft reported that Deputy Director Trevor Allen presented the proposed rule changes for the Criminal Justice Education & Training Standards Division to address a variety of recently identified issues.

MOTION was made by Commissioner Pendergraft that the Commission authorize the Planning and Standards Committee to conduct a rule-making hearing to amend the rule 12 NCAC 09B .0303 – Terms and Conditions of General Instructor Certification as follows: Change the words “Commission certified” to “Commission accredited”; Change the words “Commission recognized” to “Annual In-Service Training course pursuant to Rule 09E .0105 (Minimum Training Specifications: Annual In-Service Training) of this chapter.” In paragraph (e), add the words “12 hours as specified in Paragraph (c) of this rule” to the sentence; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Pendergraft that the Commission authorize the Planning and Standards Committee to conduct a rule-making hearing to amend the rule 12 NCAC 09B .0305 – Terms and Conditions of Specialized Instructor Certification as follows: (1) “Add language to paragraph (c), subparagraph (1), that reads “proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which the Specialized Instructor Certification was granted and that instruction was provided in a Commission-Accredited Basic Training, Speed Measuring Instrument Operator, SMI Instructor, Instructor Training or Specialized Instructor Training course or in-service course, pursuant to Rule 09E .0105 (Minimum Training Specification: Annual In-Service Training) of this Chapter”; (2) Add language to paragraph (c), subparagraph (2), subparagraph (A), that reads “Such teaching must have occurred in a Commission-Accredited Basic Training, Speed Measuring Instrument Operator, SMI Instructor, Instructor Training or Specialized Instructor Training course or in-service course, pursuant to Rule 09E .0105 (Minimum Training Specification: Annual In-Service Training) of this Chapter, during the three-year period of Specialized Instructor Certification; or”; seconded by Commissioner Bob Ruth. The MOTION carried.

Deputy Director Trevor Allen presented the proposed changes for Specialized Firearms and Physical Fitness Instructors. Rule 12 NCAC 09B .0305 – Terms and Conditions of Specialized Instructor Certification was amended earlier this year that required these instructors to demonstrate proficiency in their specialties during the three-year certification period. Staff recommended to the Committee that a start date of January 1, 2016 be implemented in order to allow these specialized instructors to obtain the necessary documentation as required by the new rule. The Committee approved this request.

Chairperson Pendergraft stated that on behalf of the Speed Measuring Instrument Advisory Committee, Dan Worley with the North Carolina Justice Academy, recommended the addition of the Laser Technology Inc. “TruSpeed LR” LIDAR speed measuring instrument to the current listing of approved instruments for field use, as outlined in Appendix A of the Supplement for Speed Measuring Instrument Training Courses. Included in this request are the proposed revisions to add this instrument to Appendix A – Approved for Use List and Appendix C – Daily Tests for Accuracy in the “Supplement for Speed Measuring Instrument Training Courses.” The Committee approved these requests.

Chairperson Pendergraft reported that on behalf of the School Accreditation Subcommittee, Commissioner McPherson recommended the reaccreditation of the following institutions for a period of five years in accordance with 12 NCAC 09B .0200 and 12 NCAC 09C .0401 for the delivery of the Commission regulated training. Durham Technical Community College – BLET, SMI and General Instructor Training; Forsyth County Sheriff’s Office – General Instructor Training; Raleigh Police Department – BLET and SMI; Sandhills Community College – BLET,

SMI and General Instructor Training and Tri-County Community College – BLET and General Instructor Training. The Committee approved this request.

Director Mark Strickland requested the approval of pilot authority for the North Carolina Association of Chiefs of Police to deliver regional training that would count towards credit for in-service topic of choice for 2015 and 2016. The Association will sponsor training in the fall of this year and spring of 2016 titled "Interviewing Generation ME" which will be delivered by Don Rabon. The Academy will coordinate these training sessions for the Association. The Committee approved these requests.

Chairperson Pendergraft stated that on behalf of the International Association of Directors of Law Enforcement Training, Ms. Peggy Schaefer briefed the Committee on the National Certification Program Initiative sponsored by the Association. The Association is conducting a thorough review of training content submitted to the Association for consideration in order to certify that training which meets the Association's standards. Ms. Schaefer stated that both Commission-accredited training or other Agency training programs could be eligible to become nationally certified by the Association's program and that this is an excellent opportunity for law enforcement training in North Carolina. The Division staff requested approval to accept the NCP certified training to count towards approved training credit for Commission professional certificates. The Committee approved this request.

Chairperson Pendergraft reported that on behalf of the Justice Academy, Wayne Ayers, Deputy Director, briefed the Committee on the revisions to the Concealed Carry Handgun Model Course and the Concealed Carry Handgun Instructor Training as a result of House Bill 562 passed by the North Carolina General Assembly in late July.

Chairperson Pendergraft concluded her report by stating that on behalf of the Division staff, Deputy Director Trevor Allen requested that the Committee provide guidance on the interpretations for Rule 12 NCAC 09B .0302 and 12 NCAC 09G .0308 – General Instructor Certification. The Education and Training Committee provided the following guidance for staff to form a Committee to explore the process to certify instructors who currently do not meet the criteria for instructor certification in both rules. The Committee does not wish to change any current language in 12 NCAC 09B .0302 and 12 NCAC 09G .0308.

C. Planning and Standards Committee – Chairman Scott Cunningham

Chairman Cunningham reported that the Committee held a public hearing for rules. He explained that these rules were to include language allowing a two-year degree or higher to be used to satisfy the educational requirement. Applicants must show proof of high school diploma or equivalency, even if they subsequently want to pursue higher education. The Rules affected include: 12 NCAC 09B .0106; 09B .0111; 09B .0114; 09B 0117; 09B .0203; 09B .0302; 09B .0501; 09G .0204; and, 09G .0308. The Committee approved these rules. Additionally, 12 NCAC 09F .0104 was proposed for revision in order to ensure that Concealed Carry Handgun Instructors are teaching current materials.

MOTION was made by Commissioner Cunningham that the Commission adopt the proposed rule amendments with language modification as described; seconded by Commissioner Jeff Welty. The MOTION carried.

Lastly, the Committee reviewed added language in the Proposed Temporary Rule regarding Military Transferees, 12 NCAC 09B .0701. The new paragraph reads, "The Division shall waive any training topics in Paragraph (e)(4) of this Rule if the applicant provides documentation indicating he or she has completed substantially equivalent military training and experience in that topic." The Committee decided that the language is revised to "...substantially equivalent combined military training and experience in that topic." The word "combined" was used in the law, and adding it to the Rule will acknowledge the intent of the legislature.

MOTION was made by Commissioner Cunningham that the Commission adopt the proposed rule amendment with language modification as described; seconded by Commissioner Welty. The MOTION carried.

Next, Chairman Cunningham reported that staff requested rule-making authority to revise 12 NCAC 09F .0106 dealing with sanctions for Concealed Carry Handgun courses. He reported that the added language would allow the Commission to conduct audits at its discretion.

MOTION was made by Commissioner Cunningham that the Commission authorize the Planning and Standards Committee to conduct a rule-making hearing to give authority to conduct audits at the discretion of the Commission; seconded by Commissioner James Fisher-Davis. The MOTION carried.

Chairman Cunningham reported that the Forms Subcommittee met in June to discuss the inconsistent language to the Commission forms. Also, he reported that additional clarification was needed in certain areas of these forms. The GED language would need to be changed to "high school equivalency". The forms affected included: Forms F-2(JJ), F-2(LE), F-5A (Adult Corrections), F-5A(LE), F-8(JJ) and the F-8(LE).

MOTION was made by Commissioner Cunningham that the Commission adopt revisions to Forms: F-2(JJ), F-2(LE), F-5A (Adult Corrections), F-5A(LE), F-8(JJ) and the F-8(LE); seconded by Commissioner Trey Robinson. The MOTION carried.

Chairman Cunningham reported that staff submitted a new System Plan. The length of plan decreased from five years to two years and the goals were reduced by four. A draft of the System Plan will be sent to the full Commission and a new revised version will be sent to the full Commission to be voted on at the November meeting.

Chairman Cunningham concluded his report by stating that the Forms Subcommittee will be reviewing the Medical Guidelines.

D. Probable Cause Committee - Chairman Ray Davis

Chairman Davis reported that the Probable Cause Committee met on Wednesday, August 19th and Thursday, August 20, 2015 at Wake Technical Community College, Raleigh, North Carolina.

He reported that the Committee reviewed a total of thirty-two (32) cases. Probable cause was found in eighteen (18) cases and no probable cause in eight (8) cases. Five cases were continued for additional investigation. He related that the Committee found probable cause in one case in which the Committee offered a lesser sanction of an "Official Written Reprimand."

MOTION was made by Commissioner Davis that the Commission accept a lesser sanction of agreement for Memorandum Number 15/070; seconded by Commissioner Angela Williams. The MOTION carried unanimously.

OTHER BUSINESS

None

VIII. OLD BUSINESS

A. Old Business

None

B. Legal Counsel Report

Ms. Earnhardt distributed a document entitled "Pending Administrative Cases" for the membership's review.

C. Final Agency Decisions

Commission Vice-Chairman Caldwell noted that Mr. John Congleton, an Assistant Attorney General, would serve as the Commission's Legal Counsel for the Final Agency Decision.

Commission Vice-Chairman Caldwell read the Recusal Statement to the Commission members and reminded everyone that both the Petitioner and the Respondent would be limited to 30 minutes of oral argument.

1. Darryl Berry

Ms. Earnhardt presented oral argument regarding the case against Mr. Berry.

MOTION was made by Commissioner Pendergraft that the Commission go into Closed Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Pendergraft that the Commission return to Open Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Charles Johnson that the Commission adopt the Proposed Final Agency Decision based upon the Findings of Fact and Conclusions of Law, it is hereby ORDERED that Mr. Berry has 120 days to submit a request for certification as a law enforcement officer. It is further ORDERED that Mr. Berry has until December 31, 2015 to complete his 2015 in-service training before being appointed and sworn as a law enforcement officer; seconded by Commissioner Rob Ruth. The MOTION carried. See Attachment I for the Commission's Final Agency Decision and Attachment II for the roll call vote.

2. Arthur Randall Griffin

Ms. Earnhardt presented oral argument regarding the case against Mr. Griffin.

MOTION was made by Commissioner Steve Johnson that the Commission go into Closed Session; seconded by Commissioner Charles Johnson. The MOTION carried.

MOTION was made by Commissioner Pendergraft that the Commission return to Open Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Pendergraft that the Commission adopt the Proposed Final Agency Decision that it is hereby ORDERED that the Petitioner's certification as a law enforcement officer not be suspended but be placed on probation for a period of one year on the condition that the Petitioner not violate any laws of North Carolina or any other State's laws with the exception of minor traffic violations, and not violate this Commission's rules or the rules of any other regulatory agency. This period of probation begins on the date this ORDER is signed; seconded by Commissioner Cunningham. The MOTION carried. See Attachment III for the Commission's Final Agency Decision and Attachment IV for the roll call vote.

3. Rayburn Darrell Rowe

Ms. Earnhardt presented oral argument regarding the case against Mr. Rowe.

MOTION was made by Commissioner Charles Johnson that the Commission go into Closed Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Pendergraft that the Commission return to Open Session; seconded by Commissioner Nathan Mizell. The MOTION carried.

MOTION was made by Commissioner Welty that based upon the foregoing Findings of Fact and Conclusion of Law, Rayburn Darrell Rowe's law enforcement officer certification not be suspended, but that Petitioner's certification be on a probationary status of one year on the condition that the Petitioner not violate any laws of North Carolina or any other State's laws with the exception of minor traffic violations, and not to violate this Commission's rules or the rules of any other regulatory agency. This period of probation begins on the date this ORDER is signed; seconded by Commissioner Cunningham. The MOTION carried. See Attachment V for the Commission's Final Agency Decision and Attachment VI for the roll call vote.

4. Ronnie Earl Smith

Ms. Earnhardt presented oral argument regarding the case against Mr. Smith.

MOTION was made by Commissioner Charles Johnson that the Commission go into Closed Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Charles Johnson that the Commission return to Open Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Pendergraft that based upon the foregoing Findings of Fact and Conclusions of Law; it is hereby ORDERED that Petitioner's certification as a correctional officer should not be suspended; seconded by Commissioner James Fisher-Davis. The MOTION carried. See Attachment VII for the Commission's Final Agency Decision and Attachment VIII for the roll call vote.

5. Darin Clay Whitaker

Ms. Earnhardt presented oral argument regarding the case against Mr. Whitaker.

MOTION was made by Commissioner Yolanda Sparrow that the Commission go into Closed Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Sparrow that the Commission return to Open Session; seconded by Commissioner Mizell. The MOTION carried.

MOTION was made by Commissioner Welty that the Commission adopt the Proposed Final Agency Decision as presented by legal counsel; seconded by Commissioner Steve Johnson. The MOTION carried. See Attachment IX for the Commission's Final Agency Decision and Attachment X for the roll call vote.

6. DeWayne Rosean Ward

Ms. Earnhardt presented oral argument regarding the case against Mr. Ward.

MOTION was made by Commissioner Charles Johnson that the Commission go into Closed Session; seconded by Commissioner Fisher-Davis. The MOTION carried.

MOTION was made by Commissioner Charles Johnson that the Commission return to Open Session; seconded by Commissioner Cunningham. The MOTION carried.

MOTION was made by Commissioner Fisher-Davis that the Commission adopt the Proposed Final Agency Decision as presented by legal counsel that DeWayne Rosean Ward's certification as a law enforcement officer be denied; seconded by Commissioner Fisher-Davis. The MOTION carried. See Attachment XI for the Commission's Final Agency Decision and Attachment XII for the roll call vote.

7. Robert Boyce Sherrill

Ms. Earnhardt presented oral argument regarding the case against Mr. Sherrill.

MOTION was made by Commissioner Pendergraft that the Commission go into Closed Session; seconded by Commissioner B. W. Collier. The MOTION carried.

MOTION was made by Commissioner Charles Johnson that the Commission return to Open Session; seconded by Commissioner Bill Grey. The MOTION carried.

MOTION was made by Commissioner Cunningham that the Commission adopt the Proposed Final Agency Decision; seconded by Commissioner Charles Johnson. The MOTION carried. See Attachment XIII for the Commission's Final Agency Decision and Attachment XIV for the roll call vote.

8. Phillip Charles Ford

MOTION was made by Commissioner Cunningham that the Commission adopt the Proposed Final Agency Decision; seconded by Commissioner Mizell. The MOTION carried. See Attachment XV for the Commission's Final Agency Decision and Attachment XVI for the roll call vote.

9. Martin Locklear

MOTION was made by Commissioner Cunningham that based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that Respondent suspend Petitioner's probation/parole officer certification for a period of not less than three years based upon Petitioner's commission of the DAC misdemeanor "Assault by Pointing a Gun" in violation of N.C.G.S. §14-34. This period of suspension begins on the date this ORDER is signed; seconded by Commissioner Charles Johnson. The MOTION carried. See Attachment XVII for the Commission's Final Agency Decision and Attachment XVIII for the roll call vote.

10. Susan Maney

Ms. Earnhardt asked that this case be tabled until the next meeting in November.

11. Derrick Knox

Ms. Earnhardt asked that this case be tabled until the next meeting in November.

12. Ronald Corbett

Ms. Earnhardt asked that this case be tabled until the next meeting in November.

IX. DATE OF NEXT MEETING

Commission Vice-Chairman Caldwell advised that the next Commission meeting is scheduled for November 19-20, 2015 at the Wake Technical Community College, Public Safety Education Campus in Raleigh, NC.

X. MOTION TO ADJOURN

MOTION was made by Commissioner Pendergraft that the Commission adjourn; seconded by Commissioner Charles Johnson. The MOTION carried unanimously.